



**Federal Update  
for  
June 9 - 13, 2014**



***Keeping Promises Made to Our Veterans***

Dear Friends,  
As a 25-year veteran of the U.S. Marine Corps, one of the reasons I came to Congress was to ensure promises made to our veterans are promises kept. Sec. Shinseki's resignation was a first step towards restoring America's faith that we will keep our promises made to our heroes and provide them the health care they deserve.

Recently, I spoke at length with Minneapolis VA Health Care System Director Patrick Kelly to discuss VA issues nationwide, and to conduct oversight for Minnesota veterans on wait times and access to care issues. We share the belief that our top priority must be to ensure accuracy and accountability for access to care for veterans in Minnesota and across the country.

You may know, the VA has completed an internal audit on access and wait times of VA health care system. I was pleased the wait time for patients seeking primary care at the Minneapolis VA Medical Center is better than the national average; however, the Minneapolis VA Health Care System will require further review to determine the extent of actions necessary to resolve any issues.

As I continue to monitor the situation, the House of Representatives is also taking action. This week, we will vote on legislation ensuring VA employees do not receive bonuses as well as allowing veterans in immediate need of care or in rural locations to receive access to care at private facilities.

**Ensuring Our National Defense**

It has been a longstanding policy of the United States that we do not negotiate with terrorists. The Administration has violated that long established policy and sets an incredibly dangerous precedent. My friend, colleague, former POW, and

American hero Congressman Sam Johnson (TX-3) states it best in his open letter.

This Wednesday, the House Armed Services Committee will hold a hearing with Sec. of Defense, Chuck Hagel, to examine the transfer of the five senior Taliban detainees and the impact this has on our national security. For more information, or if you would like to watch the hearing live, visit [www.armedservices.house.gov](http://www.armedservices.house.gov).

### **Honoring Our Nation's Flag**

On June 14, 1777 the Second Continental Congress adopted the United States Flag by resolution. In 1916, President Woodrow Wilson established Flag Day by proclamation to commemorate this important date in our history every June 14. Our flag is a symbol of freedom and democracy, and is recognized around the globe. You may not know, one of the services my office provides is the option to order a U.S. Flag on my website. If you would like to take part in commemorating Flag Day, you can order a flag through my office and have it flown over the Capitol by visiting [www.kline.house.gov](http://www.kline.house.gov). I am always happy to help individuals, such as yourself, honor this important part of our heritage, and I encourage you and your loved ones to commemorate Flag Day however you see fit.

Best wishes,  
John Kline  
Member of Congress

## ***Military Sexual Trauma: Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions***

### **What GAO Found**

The Veterans Benefits Administration (VBA), within the Department of Veterans Affairs (VA), has taken several steps to improve decision-making on disability claims involving military sexual trauma (MST) and to rectify past errors. In 2011, VBA began assigning MST-related claims to adjudicators with expertise in complex cases and required them to receive MST-specific training, such as on the broadened scope of evidence allowed since 2002. In 2012, the Veterans Health Administration (VHA) also provided some optional training to medical examiners who provide key input into decisions for such claims. Noting that some MST-

related claims may have been erroneously denied prior to the specialization and training of staff, VBA in April 2013 invited 2,667 veterans with denied claims for post-traumatic stress disorder (PTSD) to resubmit them.

According to VBA data, national approval rates for claims based on MST have markedly increased since fiscal year 2010, a change that agency officials attributed to the additional training and a better general understanding of MST requirements. However, GAO found wide variation in approval rates among regional offices, which ranged from 14 to 88 percent in fiscal year 2013. Half of the offices had approval rates close to the average (between 40 and 60 percent), but the rest were higher or lower. While variation does not necessarily signify inconsistency, staff GAO interviewed from four of five offices described ongoing difficulty applying the broadened standards, and GAO found several instances of widely varying interpretations. Both VBA and VHA staff also described variation in the thoroughness of VHA medical exams used by adjudicators to reach decisions. Some VHA medical examiners GAO spoke with required more evidence than others to establish that an MST incident occurred. VBA and VHA staff in almost every office GAO contacted said that further training would be useful, feedback that is consistent with good practices previously identified by GAO and others for reinforcing training. More recently, VHA has decided to make upcoming training on MST-related exams required for all medical examiners who conduct them.

With respect to reviewing previously denied claims, VBA was only able to contact veterans whose claims had been denied since September 2010, although those with older claims can also resubmit. VBA's national outreach to other affected veterans was limited to two group meetings with veteran service organizations. While VBA has taken some steps to evaluate decisions for MST-related claims, its quality reviews and analyses of claim decisions have shortcomings. For example, a 2013 quality review focusing on consistency may under-estimate challenges associated with adjudicating MST claims. Also, due to varying methods and samples, quality reviews conducted to date are insufficient to measure improvement over time—a standard part of internal control. In addition, while VBA analyzes data on national approval rates to gauge the effect of process improvements, GAO's analysis of approval rates by regional office and veteran gender found wide variation. VBA also does not systematically collect data on the number of exams received or why claims are denied—information that could help VBA identify potentially problematic trends. VBA officials said the agency's many

competing priorities have precluded additional data collection and analysis to date, but added that they plan to review variations in approval rates in the near future.

### **Why GAO Did This Study**

In 2012, 1 in 5 female and 1 in 100 male veterans told VA that they had experienced sexual abuse in the military. Referred to as military sexual trauma or MST, such abuse can result in disabling conditions like PTSD, which may entitle a veteran to VA benefits. Yet, establishing that MST occurred—a prerequisite for approving these claims—can be difficult, given that servicemembers may be unwilling to file formal complaints. In 2002, VA broadened the scope of allowable evidence for MST-related claims to include indicators, such as behavioral changes. Beginning in 2011, VBA took additional steps to clarify the 2002 changes. GAO was subsequently asked to review these actions.

This report examines: (1) steps VA took to improve MST-related decisions, (2) results of its actions, and (3) the extent it is evaluating the quality of claim decisions. GAO reviewed relevant federal laws, regulations, and guidance; analyzed VA data on MST-related claim decisions (fiscal years 2010-2013); interviewed national VBA and VHA officials, key advocates, and stakeholders, VBA officials at 5 of 57 regional offices (with varying workloads and quality review scores), and VHA examiners associated with 3 of these offices; and reviewed a non-generalizable sample of 18 claim files completed in 2013 for examples of how evidence was evaluated.

### **What GAO Recommends**

GAO is recommending that VA improve training, conduct more outreach, and enhance its MST-related quality reviews and analyses. VA concurred with all of GAO's recommendations.

### **Recommendations for Executive Action**

**Recommendation:** The Acting Secretary of Veterans Affairs should direct the Under Secretary for Benefits to expand existing training and guidance to adjudicators responsible for MST-related claims by, for example, providing mandatory refresher courses or regularly distributing examples of relevant errors identified from quality assurance reviews.

**Agency Affected:** Department of Veterans Affairs

**Recommendation:** The Acting Secretary of Veterans Affairs should direct the Under Secretary for Benefits to develop a plan for conducting more comprehensive quality reviews of MST-related claims that allows the agency to identify problem areas, target improvement efforts, and track performance over time.

**Agency Affected:** Department of Veterans Affairs

**Recommendation:** The Acting Secretary of Veterans Affairs should direct the Under Secretary for Benefits to further analyze existing data on MST-related claim decisions by, for example, determining approval rates by regional office and veteran gender.

**Agency Affected:** Department of Veterans Affairs

**Recommendation:** The Acting Secretary of Veterans Affairs should direct the Under Secretary for Benefits to explore ways to systematically collect additional data on MST-related claims that might allow the agency to better track consistency. Such data could include reasons for denials, whether claim evaluations included a medical exam, and how often related medical exam reports are returned to VHA for clarification or deemed insufficient.

**Agency Affected:** Department of Veterans Affairs

**Recommendation:** The Acting Secretary of Veterans Affairs should direct the Under Secretary for Benefits to expand outreach to veterans who are eligible to resubmit their previously denied PTSD claims related to MST. The agency should conduct this outreach in partnership with the Veterans Health Administration or external organizations, such as veteran service organizations.

**Agency Affected:** Department of Veterans Affairs

**Recommendation:** The Acting Secretary of Veterans Affairs should further direct the Under Secretary for Health to ensure that planned training on conducting MST-related exams is provided to all medical examiners who perform them, including contractors.

**Agency Affected:** Department of Veterans Affairs

## ***Walz Pleased VA Working with Mayo Clinic, Others in Health Care Industry***

Washington, DC [6/10/14] – Today, Representative Tim Walz (MN-01) released the following statement after the VA announced that they would be meeting with Mayo Clinic and others in the health care industry to discuss scheduling best practices. Last night, Walz mentioned Mayo’s desire to help VA during a U.S. House VA Committee hearing.

“I’m pleased that VA officials are following words with actions and will work with health care leaders, including Mayo Clinic, to apply best practices to help improve the VA system. We must continue to push the VA to be open and transparent and work with industry leaders to reform the system and ensure veterans have the health care they have earned.”

## ***VA Meets With Healthcare Industry to Discuss Best Scheduling Practices***

WASHINGTON – Acting Secretary of Veterans Affairs Sloan Gibson today announced that the Department of Veterans Affairs (VA) will meet with private healthcare industry leaders to discuss best practices and policies for scheduling patients.

“Our top priority is to get our Veterans off wait lists and into clinics,” said Acting Secretary Gibson. “We need to continue to examine the best practices of healthcare systems across the country to find immediate solutions for timely delivery of quality healthcare. VA must be at the forefront of access and innovation. Our Veterans deserve nothing less.”

Today, VA officials will meet on state-of-the-art health care access with industry leaders including Kaiser Permanente, Gartner and Mayo Clinic. Discussions will focus on improving Veteran access to quality healthcare and innovating measurement approaches to gauge short- and long-term access to care. Topics will also include recommended strategies and tools to help managers and providers best serve Veterans and provide a consistent patient experience.

## ***Walz Statement on Nationwide VA Access Audit Findings***

Washington, DC [6/9/14] – Today, Representative Tim Walz (MN-01) released the following statement after the results of the nationwide VA Access Audit were released. The initial phase-one of the audit flagged Minneapolis and Rochester VA facilities for further review and investigation.

“The results of the nationwide VA Access Audit are concerning. I encourage the VA Inspector General to immediately engage with those facilities that have been flagged for further review, including the Minneapolis and Rochester facilities, and, if any wrongdoing is found, hold those responsible accountable. We must root out the bad actors and reform the system to ensure our veterans get the care they have earned.”

Last week, Walz met with Veterans in southern Minnesota to talk about ways to reform the VA system and ensure veterans get the care they deserve. To read about more about those visits, please [click here](#).

To access the nationwide VA Access Audit results, please [click here](#).

To access the data that was presented to Walz during his May meetings with VA, please [click here](#).

Last month, Walz also sent a letter requesting a full accounting of the data and scheduling practices to VA and is still awaiting a formal reply to that letter.

## ***Kline, Klobuchar, Minnesota Delegation Call on U.S. Army to Ensure Minnesota National Guard’s Ability to Assist Victims of Sexual Assault***

*The Army recently released a directive expanding important legal services to certain victims of military sexual assault, but the directive fails to cover Guard members who become victims of sexual assault outside of their drill weekend or military duty*

*Minnesota delegation raises concerns that the lack of clarity around the new directive could undermine the Minnesota National Guard's ability to effectively provide support services to survivors of sexual assaults*

WASHINGTON, DC – Today, Representative John Kline and U.S. Senator Amy Klobuchar led Minnesota's congressional delegation in calling on the U.S. Army to ensure that the Minnesota National Guard can fully assist victims of sexual assault. The Army recently released a directive expanding important legal services to certain victims of military sexual assault, but the directive fails to cover Guard members who become victims of sexual assault outside of their drill weekend or military duty. In a letter to Secretary of the Army John McHugh, Minnesota's congressional delegation raised concerns that the lack of clarity around the new directive could undermine the Minnesota National Guard's ability to effectively provide support services to survivors of sexual assaults. The letter was led by Senator Klobuchar and Representative Kline and co-signed by Senator Franken and Representatives Peterson, McCollum, Bachmann, Ellison, Walz, Nolan, and Paulsen.

“As members of the Minnesota Congressional delegation, and strong supporters of the Minnesota National Guard, we are focused on ensuring the military has the tools to prevent sexual assault and assist survivors,” the lawmakers wrote. “Our Minnesota servicemembers should not be impeded from seeking critical services in the aftermath of a sexual assault. The Army must provide clear guidance and direction in order for the National Guard to effectively provide these services authorized by Congress.

In May, the Department of Defense released a report which found that overall reporting of sexual assaults in the military in Fiscal Year 2013 was 50 percent higher than it was in Fiscal Year 2012 (5,061 in 2013 versus 3,374 in 2012). Previous year-to-year increases in reporting never exceeded five percent.

As a 25-year veteran of the U.S. Marine Corps, whose wife is a retired career Army Nurse, Kline has championed efforts to make sexual assault prevention and prosecution a focus of defense legislation. In addition to leading this letter with Sen. Klobuchar, last month, Kline spoke with Sec. of the Army, John McHugh, to ensure the men and women serving in the Minnesota National Guard have access

to critical services following an assault. Kline also recently led bipartisan legislation, signed into law by the President, preventing any individual convicted of a sex crime from enlisting in the U.S. Armed Forces.

Klobuchar has been a leader in the fight against sexual assault in the military. The 2014 *National Defense Authorization Act* included Klobuchar-authored provisions to help crack down on sexual assault in the military, including measures to require the automatic retention of sexual assault records, strengthen whistleblower protections, and help stop repeat offenders.

The full text of the delegation's letter is below:

Dear Secretary McHugh:

We write to express our concern with the Army's recently published directive outlining the eligibility of Army National Guard and Reserve servicemembers for Special Victims Counsel (SVC) services.

As you know, Congress established the SVC program to be a legal resource throughout the military justice process for victims of sexual assault in the military. Servicemembers can request SVC services to assist in providing legal advice and representation during the highly vulnerable period following a sexual assault. SVC lawyers receive specialty training in order to serve as a valuable resource for assistance and encourage victims to come forward. The Minnesota National Guard has taken proactive steps to ensure access to SVC services by assigning a Minnesota attorney and judge advocate to serve as the state's full-time SVC.

The Army recently published new directive (AR 2014-09) expanding some SVC services to members of the National Guard in Title 32 state duty status by Army-trained SVC Judge Advocates. We are concerned the Army policy does not extend services to members of the National Guard who are not on a duty status, but are victims of military-on-military sexual assault outside of their drill weekend or military duty. The Army policy does not recognize that the effects of military sexual assault are experienced by both the servicemember and the unit regardless of whether the assault occurs on or off duty.

We respectfully request the following information:

1. Is the Army providing SVC services to members of the National Guard and Reserve who are the victim of sexual assault by another servicemember when not on military orders (non-drill weekend / non-annual training event / not on state active duty, etc.)?
2. Did the Army intentionally exclude National Guard and Reserve servicemembers who were sexually assaulted while not in a military status from receiving SVC services when finalizing AR 2014-09? If so, why?
3. During update of the SVC program guidance, did the Army consult National Guard and Reserve stakeholders on the need to extend SVC services to reserve members assaulted by another reserve member while neither are on military orders?
4. What is the Army's rationale for not providing SVC services for a member of the National Guard or Reserve when the sexual assault was both (a) military-on-military sexual assault; and (b) the assault has a nexus to the victim's military service?
5. Has the Army examined the SVC programs of other service components that extend services to victims of sexual assault in the military who are assaulted while not on military orders with plans to incorporate these best practices into Army policies?

As members of the Minnesota Congressional delegation, and strong supporters of the Minnesota National Guard, we are focused on ensuring the military has the tools to prevent sexual assault and assist survivors. Our Minnesota servicemembers should not be impeded from seeking critical services in the aftermath of a sexual assault. The Army must provide clear guidance and direction in order for the National Guard to effectively provide these services authorized by Congress.

Thank you for your consideration of this important matter.

# *Health Care Access: Improved Oversight, Accountability, and Prioritization Can Improve Access for Native American Veterans*

## **What GAO Found**

The Department of Veterans Affairs (VA) and the Indian Health Service (IHS) have taken a variety of actions to improve access to care for Native American veterans under their 2010 memorandum of understanding (MOU); however according to stakeholders, these agencies face substantial implementation challenges. VA and IHS have taken actions to (1) strengthen outreach and enrollment through information sharing and training; (2) expand services through national and local projects; (3) increase training about cultural competency for staff at VA and IHS facilities; and (4) establish reimbursement agreements that allow VA to reimburse IHS facilities for services provided to veterans. However, in each of these areas challenges remain, such as insufficient data to identify Native American veterans for outreach, obstacles to reaching those who live in very remote areas, and technological challenges such as lack of Internet connectivity or phone lines. While VA and IHS have taken actions to increase access, the oversight, accountability, and prioritization of MOU implementation are lacking. Specifically: Oversight is inconsistent: In 2013, the officials tasked with oversight of the implementation of the MOU did not meet and did not systematically evaluate the progress of MOU implementation.

Written policies and guidance are lacking: According to officials, the only documentation outlining the procedures to report VA and IHS progress on implementation efforts is contained in a set of training slides used in a December 2012 training session, and these slides have not been formalized in written policy or guidance.

Prioritization of MOU implementation is lacking: Leadership of VA and IHS have not made MOU implementation a priority, which threatens the ability of the two agencies to move forward in implementing the MOU. Key officials attributed this, in part, to their perception that their non-MOU related responsibilities had a higher priority.

Without consistent oversight, formal policy or guidance on responsibilities for MOU implementation, and the prioritization of MOU implementation, VA and IHS leadership do not have reasonable assurance that the objectives of the MOU related to access to care are being addressed.

Native American veterans and their representatives that GAO contacted reported mixed views on whether access to care has improved over the past 3 years. Although a majority reported that access to care had improved, others either said that they did not think it had improved or were unsure. For example, 53 of 102 Native American veterans representatives GAO contacted reported that in the last 3 years there had been an increase in the number of Native American veterans accessing health care at VA or IHS-funded facilities; however, 12 felt there had been no change, and 36 said they did not know.

### **Why GAO Did This Study**

Native Americans who have served in the military may be eligible for health care services from both VA and IHS, but according to reports some have had problems accessing care. In 2010 these two agencies expanded upon an MOU designed to improve Native American veterans' access to care at their facilities. GAO was asked to examine how the MOU has increased access to care.

This report examines: (1) the actions that VA and IHS have taken to implement the provisions in the 2010 MOU related to access to care for Native American veterans, and (2) what is known about how access to care for Native American veterans has improved. To conduct this work, GAO reviewed agency documents and VA and IHS reimbursement data and interviewed VA and IHS officials. GAO also visited three sites selected to reflect geographic variation to learn about access to care locally through interviews with regional VA and IHS officials, health facility officials, and Native American veterans and their tribal representatives. GAO also contacted other individuals who help Native American veterans seek enrollment in the VA to obtain their insights about improvements in access to care.

### **What GAO Recommends**

GAO recommends that VA and IHS establish written policy or guidance designating specific roles and responsibilities for agency staff to hold leadership

accountable and improve implementation and oversight of the MOU. VA and IHS agreed with GAO's recommendation.

### **Recommendations for Executive Action**

**Recommendation:** To improve access to care for Native American veterans through MOU implementation, the Acting Secretary of Veterans Affairs and the Secretary of Health and Human Services should establish written policy or guidance designating specific roles and responsibilities for agency staff to hold leadership accountable and improve implementation and oversight of the MOU. In developing written policies and guidelines, strong consideration should be given to the guidance embodied in the training slides from December 2012, including the following: (1) Develop an organizational chart clearly outlining the VA and IHS MOU structure and detailing agency staff roles and responsibilities. (2) Require that regularly scheduled meetings be held by the Joint Implementation Task Force or other groups charged with the oversight of MOU implementation. (3) Ensure that VISNs and the MOU work groups submit reports to VA and IHS quarterly, as well as ensure that the groups charged with the oversight of MOU implementation complete reviews and analyses of the information collected to assess MOU progress and address any deficiencies. (4) Ensure that the Joint Implementation Task Force, or other groups charged with oversight of MOU implementation, identifies strategies and plans for accomplishing tasks related to the MOU to implement best practices and address challenges.

**Agency Affected:** Department of Health and Human Services

**Recommendation:** To improve access to care for Native American veterans through MOU implementation, the Acting Secretary of Veterans Affairs and the Secretary of Health and Human Services should establish written policy or guidance designating specific roles and responsibilities for agency staff to hold leadership accountable and improve implementation and oversight of the MOU. In developing written policies and guidelines, strong consideration should be given to the guidance embodied in the training slides from December 2012, including the following: (1) Develop an organizational chart clearly outlining the VA and IHS MOU structure and detailing agency staff roles and responsibilities. (2) Require that regularly scheduled meetings be held by the Joint Implementation Task Force or other groups charged with the oversight of MOU implementation. (3) Ensure that VISNs and the MOU work groups submit reports to VA and IHS

quarterly, as well as ensure that the groups charged with the oversight of MOU implementation complete reviews and analyses of the information collected to assess MOU progress and address any deficiencies. (4) Ensure that the Joint Implementation Task Force, or other groups charged with oversight of MOU implementation, identifies strategies and plans for accomplishing tasks related to the MOU to implement best practices and address challenges.

**Agency Affected:** Department of Veterans Affairs